

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES A. MITCHELL

*

Plaintiff,

*

v.

* CIVIL ACTION NO. 2:05-CV-380-T
WO

GREG WHITE, *et al.*,

*

Defendants.

*

ORDER

On July 14, 2005 Plaintiff submitted a demand for trial by jury. (Doc. No. 13.) Plaintiff is advised that pursuant to Rule 38(b) of the *Federal Rules of Civil Procedure*, a party is allowed to demand a trial by jury of any issue triable of right by a jury by serving a demand "not later than ten days after service of the last pleading directed to such issue." F.R.Civ.P. Rule 38(d) provides that the failure of a party to serve a jury demand as required by the rule constitutes a waiver by the party of trial by jury.

Here, Defendants filed their answer and special report to the complaint on June 20, 2005. Plaintiff filed his jury demand twenty-five days later on July 14, 2005. His jury demand, therefore, was not filed within ten days after the filing of any pleading setting forth an issue triable by jury. Plaintiff has, therefore, waived his right to trial by jury.

Accordingly, it is

ORDERED that Plaintiff's July 14, 2005 Demand for Trial by Jury (Doc. No. 13) is

DENIED.

Done, this 18th day of July, 2005.

/s/ Delores R. Boyd

DELORES R. BOYD

UNITED STATES MAGISTRATE JUDGE